

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Spiegel, Elizabeth

(b) County of Residence of First Listed Plaintiff Berks
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Donald J. Feinberg, J.D., LL.M.
Feinberg & Silva, 2000 Market St.,
Suite 1805, Phila., PA 19103

DEFENDANTS Pentheny, Mark A. (Police Officer),
Cortazzo, Christopher A. (Police Officer),
Smith, Darrin C. (Police Officer), Hogan,
David D. (Police Officer), cont'd on attached sheet
County of Residence of First Listed Defendant Berks

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1331

Brief description of cause:

42 U.S.C. - §1983 - Unreasonable Force/Seizure

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$1,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:☒ Yes ☐ No**VIII. RELATED CASE(S)**

IF ANY None.

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8 Sept. 2, 2008

SIGNATURE OF ATTORNEY OF RECORD

Donald J. Feinberg

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ATTACHED SHEET TO CIVIL COVER SHEET

Martinez, Jose R. (Police Officer),
Muczynski, Justin (Police Officer),
Hackney, Mark S. (Police Officer),
Bowers, Robert W. (Police Officer) and
Perkins, Michael P. (Police Officer)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Elizabeth Spiegel

CIVIL ACTION

V.

Mark A. Pentheny, Christopher A. Cortazzo,
Darrin C. Smith, David D. Hogan, Jose R.
Martinez, Justin Muczynski, Mark S. Hackney,
Robert W. Bowers and Michael P. Perkins

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

Sept. 7 2008Donald J. Feinberg, J.D., LL.M.**Date****Attorney-at-law****Attorney for Plaintiff**215-665-8989 x.17.215-665-0250DJFLAW94@COMCAST.NET**Telephone****FAX Number****E-Mail Address**

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3449 Earl Street, Laureldale, Pennsylvania 19605

Address of Defendant: Reading Police Department, City Hall, 815 Washington Street, Reading, Pennsylvania 19601

Place of Accident, Incident or Transaction: 1625 Perkiomen Avenue, Reading, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Donald J. Feinberg, J.D., LL.M., counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: Sept. 2, 2008

Donald J. Feinberg, J.D., LL.M.
Attorney-at-Law

72791

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: Sept. 2, 2008

Donald J. Feinberg, J.D., LL.M.
Attorney-at-Law

72791

Attorney I.D.#

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELIZABETH SPIEGEL

3449 Earl Street

Laureldale, Pennsylvania 19605

Plaintiff

v.

MARK A. PENTHENY

Reading Police Department

City Hall

815 Washington Street

Reading, Pennsylvania 19601

and

CHRISTOPHER A. CORTAZZO

Reading Police Department

City Hall

815 Washington Street

Reading, Pennsylvania 19601

and

DARRIN C. SMITH

Reading Police Department

City Hall

815 Washington Street

Reading, Pennsylvania 19601

and

DAVID D. HOGAN

Reading Police Department

City Hall

815 Washington Street

Reading, Pennsylvania 19601

and

JOSE R. MARTINEZ

Reading Police Department

City Hall

815 Washington Street

Reading, Pennsylvania 19601

and

Number:

JUSTIN MUCZYNSKI

Reading Police Department
City Hall
815 Washington Street
Reading, Pennsylvania 19601
and

MARK S. HACKNEY

Reading Police Department
City Hall
815 Washington Street
Reading, Pennsylvania 19601
and

ROBERT W. BOWERS

Reading Police Department
City Hall
815 Washington Street
Reading, Pennsylvania 19601
and

MICHAEL P. PERKINS

Reading Police Department
City Hall
815 Washington Street
Reading, Pennsylvania 19601

Defendants :

JURY TRIAL DEMANDED

COMPLAINT - CIVIL ACTION (42 U.S.C. § 1983)

INTRODUCTORY STATEMENT

1. This is an action for damages sustained by a white, female citizen of the United States against police personnel of the Reading Police Department who utilized excessive, unreasonable and unnecessary force against her while searching for two black males.

JURISDICTION

2. The jurisdiction of this Court is predicated on 28 U.S.C. §§ 1331, 1343, and 1367.

3. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988 for violations of the Constitution of the United States of America (First and Fourteenth Amendments) and 18 U.S.C § 922.

PARTIES

4. Plaintiff Elizabeth Spiegel is a white female and is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 3449 Earl Street, Laureldale, Pennsylvania 19605.

5. Defendant Mark A. Pentheny is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

6. Defendant Christopher A. Cortazzo is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting

and serving the public, within the City of Reading.

7. Defendant Darrin C. Smith is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

8. Defendant David D. Hogan is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

9. Defendant Jose R. Martinez is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

10. Defendant Justin Muczynski is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

11. Defendant Mark S. Hackney is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

12. Defendant Robert W. Bowers is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving the public, within the City of Reading.

13. Defendant Michael P. Perkins is a police officer, employed by the Reading Police Department to perform police duties, some of which include protecting and serving

the public, within the City of Reading.

14. At all times relevant hereto, defendant, Mark A. Pentheny, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

15. At all times relevant hereto, defendant, Christopher A. Cortazzo, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

16. At all times relevant hereto, defendant, Darrin C. Smith, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

17. At all times relevant hereto, defendant, David D. Hogan, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

18. At all times relevant hereto, defendant, Jose R. Martinez, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and

the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

19. At all times relevant hereto, defendant, Justin Muczynski, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

20. At all times relevant hereto, defendant, Mark S. Hackney, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

21. At all times relevant hereto, defendant, Robert W. Bowers, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official capacity.

22. At all times relevant hereto, defendant, Michael P. Perkins, was acting in such capacity as the agent, ostensible agent, servant and employee of the City of Reading and the Reading Police Department and was acting under color of law and pursuant to his authority as a police officer. He is sued individually and in his official

capacity.

FACTUAL ALLEGATIONS

23. Upon information and belief, on or about September 26, 2006, at or about 18:41 hours, Defendants responded to a call that two black males were in the rear of 1625 Perkiomen Avenue, Reading, Pennsylvania and were trying to break into that location.

24. At all relevant times hereto, Plaintiff Elizabeth Spiegel's daughter, Janel Spiegel, owned the property situated on 1625 Perkiomen Avenue, Reading, Pennsylvania.

25. Plaintiff Elizabeth Spiegel occupied the premises at 1625 Perkiomen Avenue, Reading, Pennsylvania through May, 2006.

26. Defendants, looking for two black males trying to break into 1625 Perkiomen Avenue, Reading, Pennsylvania, encountered Plaintiff, the lawful occupant at said premises on the porch adjoining said premises.

27. Defendants with their guns drawn and pointing at Plaintiff ordered Plaintiff to get down on her knees, to which Plaintiff responded that she recently underwent bilateral knee replacements.

28. Plaintiff Elizabeth Spiegel has obvious scars on her knees.

29. Defendants, knowing Plaintiff had recent bilateral knee replacements and knowing she was unable to drop to her knees, ordered Plaintiff to drop to her knees or be shot by Defendants.

30. Plaintiff Elizabeth Spiegel, fearful of being shot, dropped to her knees.

31. After Plaintiff dropped to her knees, Defendants handcuffed Plaintiff, then proceeded to place feet and knees on Plaintiff's back.

32. Plaintiff Elizabeth Spiegel remained handcuffed on the ground for approximately twenty (20) minutes.

33. Defendants, without permission, searched the premises at 1625 Perkiomen Avenue, Reading, Pennsylvania.

34. Defendants, without permission, searched Plaintiff's purse which was located inside the premises of 1625 Perkiomen Avenue, Reading, Pennsylvania.

35. Defendants never found the two black makes they were looking for.

36. Defendant never arrested Plaintiff or charged her with the violation of any crime.

37. As a result of the misconduct hereinbefore described and the following Counts, Plaintiff Elizabeth Spiegel, sustained injury to her knees, their bones, cells, muscles, nerves, tissues and functions; injury to her hips, their bones, cells, muscles, nerves, tissues and functions; injury to her left foot, its bones, cells, muscles, nerves, tissues and functions, including but not limited to a torn Achilles tendon; injury to her shoulders, their bones, cells, muscles, nerves, tissues and functions; scarring; embarrassment and humiliation, some or all of which Plaintiff has been advised may be permanent in nature.

38. As a result of the misconduct hereinbefore described and the following

Counts, Plaintiff Elizabeth Spiegel has suffered emotional distress and may continue to suffer such emotional distress, including but not limited to headaches, anxiety, nervousness, nightmares, fears, etc., for an indefinite time in the future to her great detriment and loss.

COUNT - 1
FEDERAL CAUSES OF ACTION

39. Plaintiff incorporates the preceding allegations herein, as through more fully set forth herein at length.

40. Defendants, based upon the above conduct, engaged in under color of law, deprived Plaintiff Elizabeth Spiegel of rights secured to her by the Constitution of the United States and the Amendments to the Constitution of the United States, including:

- (a) The First/Fourteenth Amendment right to freedom of expression;
- (b) The Fourth/Fourteenth Amendment rights to be free from unlawful searches and seizures of her person and property;
- (c) The Fourth/Fourteenth Amendment right to be free from excessive, unnecessary and/or unreasonable use of force to her body and person;
- (d) The Fourteenth Amendment right to be free of deprivation of liberty without due process of law; and
- (e) The Eighth/Fourteenth Amendment right to be free from cruel and unusual punishment.

WHEREFORE, Plaintiff Elizabeth Spiegel, demands the following relief, individually, jointly and/or severally against all Defendants:

- A. Compensatory damages;

- B. Punitive damages;
- C. Attorney fees pursuant to 42 U.S.C. § 1988; and
- D. Such other and further relief as this Court may deem appropriate under the circumstances.

COUNT - 2
PENDENT STATE CAUSES OF ACTION

41. Plaintiff incorporates the preceding allegations herein, as through more fully set forth herein at length.

42. Defendants, based upon the above conduct, engaged in under color of law, deprived Plaintiff Elizabeth Spiegel of rights secured to her by the Constitution of the Commonwealth of Pennsylvania, including

- (a) Article 1 Section 8 rights to be free from unlawful searches and seizures of her person and property;
- (b) Article 1 Section 8 right to be free from excessive, unnecessary and/or unreasonable use of force to her body and person; and
- (c) Article 1 Section 1 rights to freedom of liberty and of pursuing happiness.

43. Plaintiff Elizabeth Spiegel based upon Defendants' conduct as set forth above, claims damages for battery, assault and false imprisonment.

44. Plaintiff Elizabeth Spiegel based upon Defendants' conduct as set forth above claim damages based on Defendants' intentional infliction of emotional distress and/or negligent infliction of emotional distress causing physical symptomatology.

WHEREFORE, Plaintiff Elizabeth Speigel demands the following relief, jointly and

severally against all Defendants:

- A. Compensatory damages;
- B. Punitive damages;
- C. Attorney fees pursuant to 42 U.S.C. § 1988; and
- D. Such other and further relief as this Court may deem appropriate under the circumstances.

Respectfully Submitted,

FEINBERG & SILVA

BY: _____
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